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IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

Group: 1761
Application No.: 10/806,940
Invention: Single Serving Silicone Receptacle
Applicant: Richard B. Finnee II
Filed: March 23, 2004
Attorney
Docket: MR-102
Examiner: Drew E. Becker

CERTIFICATE OF MAILING

I hereby certify that this paper is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Mail Stop Amendment, Commissioner for Patents, P. O. Box 1450, Alexandria, Virginia 22313-1450, on this date.

7/9/07 Mark A. Hamill
Date Registration No. 37,145
Attorney for Applicant

INFORMATION DISCLOSURE STATEMENT

Mail Stop Amendment
Commissioner for Patents
P.O. Box 1450
Alexandria, Virginia 22313-1450

Dear Sirs:

This statement is filed in the application identified above pursuant to 37 C.F.R. §1.56. No representation is being made that a complete search has been conducted of the prior art or that all of the most relevant art references have been found. Applicant has become aware of these references and is disclosing them in an abundance of caution to ensure full compliance with Applicant's duty of candor and good faith. The filing of this Statement shall not be construed to be an admission that the information cited in the Statement is, or is considered to be, material to patentability as defined in §1.56(b).

Also enclosed and listed on the form is a letter from Matthew T. Dennehy on behalf of Law Offices of Stephen E. Feldman, P.C., counsel for a distributor of bakeware known by the tradename SiliconeZone. See Exhibit A. In the letter, counsel for SiliconeZone asserts that "Our

client has been selling single serving silicone receptacles since 2002. (See attached, "Kids Pack 10 Piece Set.") The letter further asserts that counsel for SiliconeZone believes that this alleged prior art invalidates the originally filed claims in this case. Applicant does not have sufficient information to ascertain if counsel for SiliconeZone is correct in his assertion concerning the alleged date of sales of the Kid Pack in 2002. Further, since the image in the attachment is of such poor quality (See, Exhibit A. p.2), it was not possible to ascertain the details of the structures of the bakeware depicted therein. For this reason, Applicant's attorney purchased a Kids Pack from Silicone Zone and has enclosed digital images of the bakeware items contained therein as Exhibits B-I.¹

Exhibit B and C depict a blue tart pan which is designed for use by a child. The base portion of the tart pan has a large, raised central area and a recessed peripheral rim area. Thus, the base portion of the tart pan is believed to be neither planar nor substantially planar. The raised central area of the base further contains a large number of hemispherical dimples. The tart pan is shallow having a depth of less than $\frac{3}{4}$ of an inch and is relatively wide having a diameter of about $4\frac{1}{2}$ inches. The dimensions of the pan are thus not conducive to using the tart pan as either a cupcake or muffin liner as the base is too large to fit into one of the plurality of cavities in a cupcake or muffin pan. Moreover, it is believed that the baked product is not a single serve item since the resulting baked product would be difficult for an end user to manage with one hand while eating as is traditional with single serving baked goods like muffins and cupcakes.

Exhibit D and E depict a pink cake pan which is also designed for use by a child. The inner surface of the base portion of the cake pan has a plurality of raised ridges which define the borders of a plurality of square depressions. The sidewalls of the cake pan extend substantially vertically from the base portion of the pan. The pink cake pan has a depth of just over $1\frac{3}{4}$ inch and a diameter of about $4\frac{3}{8}$ inches. The dimensions of the pan are thus not conducive to using the cake pan as either a cupcake or muffin liner as the base is too large to fit into one of the plurality of cavities in a cupcake or muffin pan. Moreover, it is believed that the baked product

¹ Please note that an orange ruler having inch measurements is included in the photographs to assist the Examiner in assessing the scale of the bakeware items depicted in the digital images of Exhibits B-I.

is not a single serve item since the resulting baked product would be difficult for an end user to manage with one hand while eating as is traditional with single serving baked goods like muffins and cupcakes. Still further, it is believed the cake pan is primarily designed for use in layered cakes as set forth in the "Yummy White Cake" portion of the directions for the Kids Pack which is enclosed as Exhibit J. Also, no portion of the Kids Set instruction pages mentions utilizing any of the bakeware items of the set to prepare cupcakes or muffins.

Exhibit F and G² depict an orange cake pan which is also designed for use by a child. The base and sidewalls of the pan are shaped and dimensioned so that the pan resembles a teddy bear. The bear cake pan thus lacks annular sidewalls extending from the periphery of a rounded base. The bear shaped base portion of the teddy bear cake pan has a plurality of raised ridges and depressions which assist in defining the graphical representation of a teddy bear in the pan and the resulting baked goods made therefrom. The bear cake pan has a maximum depth of about 1 inch, a width of about 3 inches (at its mid-portion) and a maximum length of about 4 ¼ inches. The dimensions of the pan are thus not conducive to using the cake pan as either a cupcake or muffin liner as the base is too large and oblong to fit into one of the plurality of cavities in a cupcake or muffin pan. Moreover, it is believed that the baked product is not a single serve item since the resulting baked product would be difficult for an end user to manage with one hand while eating as is traditional with single serving baked goods like muffins and cupcakes.

Exhibits H and I depict a green cake pan which is also designed for use by a child. The base and sidewalls of the pan are shaped and dimensioned so that the pan resembles a pine tree. The tree cake pan thus lacks annular sidewalls extending upwardly and radially outwardly from the periphery of a rounded base. The tree shaped base portion of the cake pan has a plurality of relatively large indentations and depressions which assist in defining the graphical representation of a pine tree in the pan and in the resulting baked goods made therefrom. The tree cake pan has a maximum depth of about 1 inch, a maximum width of about 3 1/2 inches and a maximum length of about 4 ½ inches. The dimensions of the pan are thus not conducive to using the cake pan as either a cupcake or muffin liner as the base is too large and oblong to fit into one of the

² Exhibit G illustrates a plan view of all the SiliconeZone Kid's Pack Bakeware in its original packaging.

plurality of cavities in a cupcake or muffin pan. Moreover, it is believed that the baked product is not a single serve item since the resulting baked product would be difficult for an end user to manage with one hand while eating as is traditional with single serving baked goods like muffins and cupcakes.

It is applicant's view that, even assuming for the sake of argument that counsel for SiliconeZone is correct as to the 2002 date of first sale for the Kids Set, the pending patent claims in the application are patentably distinguishable over these bakeware products. Applicant holds this view for the following reasons: (a) due to their size, shallow depth and relatively large length and width dimensions each of the Kids Set bakeware products are multiple-serving, rather than single serving receptacles as called for by pending Claim 1; (b) none of the Kids Set products constitutes a cupcake (or muffin) liner or individual cupcake (or muffin) mold as called for by pending Claims 5, 7, 8 and 12; (c) even assuming for the sake of argument that the Kids Set products could be deemed either single serving receptacles, cupcake liners, or individual cupcake molds, each of the Kids Set products lack either (in some cases they lack both) a substantially planar base portion (or just a planar one) and a substantially annular side wall portion which extends upwardly and radially outwardly from the rounded periphery of the substantially planar base portion (or just planar one) which are called for by pending Claims 1, 8, and 12; (d) even again assuming for the sake of argument that the Kids Set products constitutes a single serving receptacle, none of the Kids Set products have a rounded base portion dimensioned to be received in the bottom of a cavity of a cupcake pan mold or substantially annular sidewall dimensioned for lining the sidewalls of the cupcake pan as called for by Claim 8; and (e) even again assuming for the sake of argument that the Kids Set products could constitute a cupcake (or muffin) mold, none of the Kids Set products have a frusto-conical body and a substantially annular sidewall which extends upwardly and radially outwardly from the rounded periphery of its base as called for by Claim 12.

United States Pre-grant Publication No. 2004/0249059A1 (the '059 application) is directed to improved release flexible bakeware which includes a carrier for assisting a user in transporting the bakeware container. Each of the embodiments of bakeware disclosed in the '059 application includes a sheet like carrier with one or more aperture(s) each bounded by a

perimeter lip. The bakeware items, muffin containers 41, 51; large, rectangular multiple serving containers 111, 171; and multiple serving round containers 211, 271, are formed of an improved silicone material containing PTFE. Each of the bakeware items includes a basin (43, 53, 112, 172, 212, 272), and a shoulder (45, 55, 117, 217, 277) surrounding the basin. Each of the shoulders contains a channel (47, 57, 131, 191, 231, 291) adapted for receiving the carrier.

Accordingly, each of the flexible bakeware containers of the '059 application lack a substantially planar base portion having "an outer surface for contacting a support" as called for by pending independent claims 1 and 12 of the current application. Those flexible bakeware items further lack both (a) "planar base portion being dimensioned for receipt within the bottom of the batter receiving cavities of a cupcake pan," and (b) a "substantially annular sidewall being dimensioned for lining the sidewalls of the batter receiving area" as called for by pending Claims 8-11. Still further, none of the flexible bakeware items of the '059 application include a substantially annular sidewall with "a plurality of ridges extending radially outwardly and valley extending radially inwardly" as called for by pending Claims 3, 10, and 14.

Further, the '059 application specifically teaches away from placing a flexible bakeware container on a cookie sheet or other metallic pan, stating: "Instead, it [a silicone bakeware container] must be fully supported under its bottom surface, and most users simply place a metal cooking sheet or other rigid pan underneath the bakeware to transfer the bakeware to and from the oven. This solution is impractical because the presence of a solid sheet of metal underneath the flexible bakeware can provide inconsistent (and uneven) baking of the food product contained by the bakeware. More specifically, the sides and top of the bakeware experience convective heating from the hot air within the oven. The bottom of the bakeware experiences conductive heating since it is in direct contact with the solid metal cooking sheet. This difference in heating methods can cause uneven cooking of the food product. The inconvenience of using a cooking sheet to transport flexible bakeware is also a drawback." '059 Application, Col. 1, lines 23-38.

None of the references discussed above or those additional ones set forth on PTO from 1449 are believed to disclose or suggest the subject matter recited in the pending claims of the above-identified application. It is therefore believed that the claimed subject matter is patentably

U.S. Serial No. 10/806,940

Atty Docket No. MR: 102

distinguishable over all these references.

The undersigned attorney makes these statements on the basis of the information in the attorney's file and as provided by Applicant and its representatives.

Respectfully submitted,

LAW OFFICES OF MARK A. HAMILL, P.C.

A handwritten signature in black ink, appearing to read "Mark A. Hamill". The signature is fluid and cursive, with the first name "Mark" and last name "Hamill" clearly distinguishable.

Mark A. Hamill
Attorney Registration No. 37,145

MAH:jah



PTO/SB/08A (04-07)

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**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Complete if Known

Application Number	10/806,940
Filing Date	03-23-2004
First Named Inventor	Richard Finnie
Art Unit	1761
Examiner Name	Drew E. Becker
Attorney Docket Number	MR-102

Sheet

of

U. S. PATENT DOCUMENTS

Examiner Initials*	Cite No. ¹	Document Number	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear
		Number-Kind Code ² (if known)			
		US- 3,483,908 B2	12-16-69	Donald W. Donovan	
		US- 4,068,993 B2	01-17-78	Raymond Dacey, et al.	
		US- 4,076,207 B2	02-28-78	Forrest L. Austin	
		US- 4,200,658 B2	04-29-80	Sandra Katzman, et al.	
		US- 4,812,115 B2	03-14-89	Daniel N. Kemp	
		US- 5,232,609 B2	08-03-93	Prevost, et al.	
		US- 6,197,359 B2	03-06-01	Jose Maria Llorente Hompanera	
		US- 2001/0043977 A1	11-22-01	Jose Maria Llorente Hompanera	
		US- 4,463,029 B2	07-31-84	Nishijima, et al.	
		US- 2002/0110627 A1	08-15-02	Kunihiro Hirano	
		US- 2004/0249059 A1	12-09-04	Akbar, et al.	
		US- 7,105,193 B2	09-12-06	Ricky K.C. Yeung	
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FOREIGN PATENT DOCUMENTS

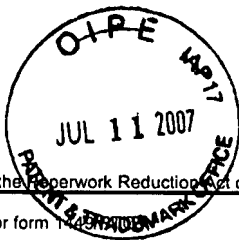
Examiner Initials*	Cite No. ¹	Foreign Patent Document	Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages Or Relevant Figures Appear	T ⁶
		Country Code ³ Number ⁴ Kind Code ⁵ (if known)				

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Considered

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This collection of information is required by 37 CFR 1.97 and 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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**INFORMATION DISCLOSURE
STATEMENT BY APPLICANT**

(Use as many sheets as necessary)

Complete if Known

Application Number	10/806,940
Filing Date	03-23-2004
First Named Inventor	Richard Finnie
Art Unit	1761
Examiner Name	Drew E. Becker
Attorney Docket Number	MR-102

Sheet

of

NON PATENT LITERATURE DOCUMENTS

Examiner Initials*	Cite No. ¹	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T ²
		Matthew T. Dennehy, Correspondence dated January 3, 2006 regarding SiliconeZone "Kids Pack 10 Piece Set."	
		Digital Images of bakeware items in "Kids Pack 10 Piece Set."	
		Instructions for use of bakeware items in "Kids Pack 10 Piece Set."	

Examiner
SignatureDate
Considered

*EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

¹ Applicant's unique citation designation number (optional). ² Applicant is to place a check mark here if English language Translation is attached. This collection of information is required by 37 CFR 1.98. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.14. This collection is estimated to take 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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